U.S. Department of Labor

Occupational Safety and Health Administration
525 Griffin Street, Room 602
Dallas, Texas 75202-5024

Reply to the attention of: OSHA TEC/FAP-TS

March 3, 1997

Joseph H. Thomas, Enforcement Coordinator
Hazard Communication Branch
Texas Department of Health
100 West 49th Street
Austin, Texas 78756-3199

Dear Mr. Thomas:

This is in response to your letter received in this office on February 24, 1997, requesting a clarification on the term "article" (refrigeration unit containing ammonia) as defined in 29 CFR 19190.1200, Hazard Communication Standard.

In reviewing your correspondence the actual question appears to be: "Can any item which contains a hazardous chemical, and which does not release that chemical under normal conditions ever be considered an article such as a refrigeration unit containing ammonia".

The Hazard Communication standard applies to any chemical which is known to be present in the work place, in such a manner that employees may be exposed under normal conditions o fuse or in a foreseeable emergency.

The purpose of the standard is to establish uniform requirements for hazard communication in industry. Under the provisions of this standard, each employee in industry who is exposed to hazardous chemicals will receive information about them through a comprehensive hazard communication program. Chemical manufacturers and importers will be required to evaluate the hazards of the chemicals they produce or import, and to transmit information to down stream employees by means of labels on containers, training, and material safety data sheets.

The coverage for this standard is determined by employee exposure or potential exposure to hazardous chemicals. OSHA has established a minimum number of chemicals that are required to be covered. In any situation the manufacturer or importer is required to treat chemicals regulated by OSHA or listed as the ACGIH on their TLV list as being hazardous for the purpose of this standard. In addition, any chemical which is listed by the NTP or IRAC as a suspected or confirmed carcinogen is also treated as a potential carcinogen under this standard.

Therefore, the refrigeration unit containing ammonia (a hazardous chemical) would not meet the exemption for an "article" because of the potential to expose employee during the connection or disconnection process, in the event of a leak, break in the system, or a failure of the seals or other foreseeable emergencies. You also inquired if lead batteries were exempt under the "article" definition. Lead acid batteries are not exempt, because they also have the potential to expose employees to not only acid, but hydrogen gas during normal charging operations.

The "article" exemption must be evaluated on a case by case basis., and it would be physically impossible to try to address every item you may encounter. However, if you look a the potential exposure to employees during foreseeable emergencies, it will become clear that the refrigeration unit without the ammonia is by design of an "article but once the ammonia is added the unit, it is covered by the standard.

If you have additional questions, you may contact me 214/767-4731 or Luis R. Villanueva at 214/767-4736 extension 246.

Sincerely,

JERRY D. BAILEY
Assistant Regional Administrator
for TEC/FAP-Technical Support

cc. Austin Area Office